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## DECISION MEMO

### *Leggett and Moose Creek Culvert Replacements*

USDA Forest Service, Northern Region

Red River Ranger District

Nez Perce – Clearwater National Forests

Idaho County, Idaho

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#### I. Decision

I am authorizing the replacement of the existing Leggett and Moose Creek culverts on Highway 14 through the Nez Perce –Clearwater National Forests, with new structures designed to improve passage for fish and other aquatic organisms between the South Fork of the Clearwater River and its tributary streams, Leggett Creek and Moose Creek. In addition, the new culverts will remedy existing maintenance issues and prevent future resource and property damage to the streams and to the highway.

#### A. Background

The project sites are located on State Highway 14, approximately at the confluences of the South Fork of the Clearwater River and its tributaries, Leggett Creek and Moose Creek. The projects are at milepost 35.8 and 39 of Highway 14, approximately 11 and 8 miles west of Elk City. The legal coordinates for the projects are: Leggett Creek: T 29N, R7E, Section 29 and Moose Creek: T29N, R7E, Section 22 (Boise Meridian).

These culverts have been identified by the Forest Service (FS), the Nez Perce Tribe (NPT) and the Idaho Transportation Department (ITD) as barriers to aquatic organism passage, as well as having maintenance issues, and are thus high priorities for replacement.

#### B. Design Specifications / Equipment

This project would remove an existing 9' round corrugated steel culvert on Leggett Creek with collapsed wing walls and replace it with a 20' span x 6' 4" rise open bottom arch with concrete footing. The existing 4' round Moose Creek corrugated metal pipe would be replaced with a 14' span x 4'8" rise structural-plate open bottom arch culvert on a concrete footing. Designs have been completed by ITD with input from the FS and NPT. The construction work would be contracted and administered by ITD and would include but not be limited to: clearing and grubbing, erosion control measures, structural excavation, roadway embankment, removing and disposing of existing culverts, compaction, riprap, roadway surfacing, furnishing and installing precast concrete foundations, furnishing and erecting structural-plate arch culverts, and all other incidental items necessary to complete the project in accordance with the plans and specifications. Equipment would be required to be clean of dirt, plant parts and other material that may carry noxious weeds and would be inspected prior to entering the work site. All disturbed areas within the construction sites would be revegetated with a combination of



native grasses, forbs and shrubs as appropriate. The instream work would occur between July 1 and September 30, 2016 as coordinated with NOAA Fisheries and US Fish and Wildlife Service to limit effects on fish. Construction work on Leggett Creek would occur in 2016; the work on Moose would occur in 2017 or 2018. Construction at each site will be phased construction, leaving one lane of Hwy 14 open for the duration of the construction.

The project would meet current Forest Plan standards for passage of 100 year flow events and allow for aquatic organism passage. The new crossings are designed for fish passage, since there are fish present. The current structures are partial to full barriers to fish passage (depending on flow). Fish potentially present include ESA listed steelhead and bull trout. The existing undersized structures currently block fish passage on to Forest Service Lands. The majority of the ownership in both these watersheds is Forest Service. Replacing both these structures would connect approximately 9 miles of upstream habitat.

## **II. Rationale for Decision and Reasons for Categorically Excluding the Decision**

### **A. Category of Exclusion and Rationale for Using the Category**

Based on information in this document and the project record, I have determined that this project may be categorically excluded from documentation in an EA or EIS. It meets all the criteria outlined in CE 18 36 CFR 220.6 (e)(18) *Installing a newly-designed structure that replaces an existing culvert to improve aquatic organism passage and prevent resource and property damage where the road or trail maintenance level does not change.*

### **B. Finding of No Extraordinary Circumstances**

I have determined that no extraordinary circumstances affecting resource conditions exist (36 CFR 220.6(b)). The rationale for my decision is based on: 1) the proposed action fully meeting the criteria for Categorical Exclusions; 2) the proposed action meeting the purpose and need; 3) the findings related to extraordinary circumstances, discussed below; 4) the project's consistency with laws and regulations, including the Forest Plan; 5) on-the-ground reviews and discussions with Forest and/or District resource specialists; and, 6) my review of the Biological Assessments (BA), Biological Evaluations (BE), and specialists' reports.

#### **1. Federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat, or Forest Service sensitive species:**

The project would have no adverse effects on listed plant and wildlife species or habitats, except those mentioned here. The fisheries report concluded there would likely be adverse effects to Snake River steelhead and bull trout and their habitat downstream of and within the project area. In addition, the project would be not likely to adversely affect downstream habitat for fall chinook salmon. The Forest consulted with the US Fish and Wildlife Service and the National Marine Fisheries Service, using the USFS, Region 1 (R1) "Stream Crossing Programmatic", and determined that any effects would be limited, due to project timing, mitigations, and best management practices. The wildlife and fisheries reports concluded the project would not affect Canada lynx. Westslope cutthroat trout, pacific lamprey, spring chinook salmon, interior redband trout, western pearlshell



mussel and their habitats, and Fisher, Gray wolf, and Western (boreal) toad may also be adversely affected, though project activities would not likely result in a loss of viability, nor cause a trend to federal listing or a loss of species viability range wide. Project design and activities will comply with all conditions in both the fisheries and wildlife "Programmatic". The replacement of the culverts would create long-term benefits for listed and sensitive fish species and Western (Boreal) toad. Payson's milkvetch (*Astragalus paysonii*) and Idaho barren strawberry (*Waldsteinia idahoensis*) are sensitive plant species that could potentially exist within the project area and be impacted; however, project activities would not likely result in a loss of viability, nor cause a trend to federal listing and impacts would overall likely be beneficial.

## **2. Floodplains, wetlands or municipal watersheds:**

Floodplains: The project will not modify or occupy floodplains to an extent greater than already exists. As such, there will be no adverse impacts to floodplains; thereby, complying with EO 11988 and FSH 1909.15, Chapter 30.3.2.

Wetlands: The project does not propose to modify or destroy wetlands. As such, the project will not adversely affect wetlands; thereby, complying with EO 11990 and FSH 1909.15, Chapter 30.3.2.

Municipal Watersheds: The project area is not located within a municipal watershed. As such, the project will not adversely affect municipal watersheds; thereby, complying with FSH 1909.15, Chapter 30.3.2.

## **3. Congressionally designated areas, such as wilderness, wilderness study areas or national recreation areas:**

The project area is not located within congressionally designated wilderness areas, wilderness study areas, or Wild and Scenic River corridors; therefore, no extraordinary circumstances were identified.

## **4. Inventoried roadless areas or potential wilderness areas:**

The project is not located within any Forest Plan or Idaho Roadless areas (36 CFR 294(c)) or potential wilderness areas; therefore, no extraordinary circumstances were identified.

## **5. Research Natural Areas:**

The project area does not include land designated as a Research Natural Area; therefore, no extraordinary circumstances were identified.

## **6. American Indians and Alaska native religious or cultural sites:**

Project information was sent to the Nez Perce Tribal Historic Preservation Officer (THPO) on July 31, 2015. No response was received from the THPO related to concerns associated with sites of cultural or religious significance within the project's area of potential effects.



## 7. Archaeological sites or historical properties or areas:

The Forest Cultural Resource Specialist determined no cultural resource sites have been identified within the project's area of potential effects; therefore, no extraordinary circumstances were identified.

## III. Interested and Affected Agencies, Organizations, and Persons Contacted

On July 31, 2015, the Nez Perce-Clearwater National Forests mailed letters to individuals, organizations, a variety of state and local agencies, and the Nez Perce and Coeur d'Alene tribes, providing information and seeking public comment. The letters, as well as any applicable responses, are contained within the project record.

## IV. Findings Required by Other Laws

Based on my review of the actions associated with this project, I find that this project is consistent with applicable Federal laws and regulations.

**National Forest Management Act and Nez Perce National Forest Plan:** This action is consistent with the Nez Perce National Forest Plan (USDA Forest Service 1987), as amended, as required by the National Forest Management Act of 1976, because it follows the standards and guidelines contained in those plans. In addition, the decision considers the best available science (36 CFR 219.35(a), Reinstatement of the 2000 Planning Rule; 74 FR 242).

**PACFISH Riparian Habitat Conservation Areas (RHCAs):** All activities associated with the proposed action comply with direction regarding PACFISH and RHCAs.

**Endangered Species Act:** A Forest Service Fish Biologist, Wildlife Biologist, and Botanist evaluated the proposed actions with regard to the Endangered Species Act as documented in the Biological Assessments, Biological Evaluations, and specialists' reports, and determined the project is consistent with the Endangered Species Act.

**Clean Air Act:** This project will comply with the provisions of the Clean Air Act, and the rules, regulations, and permit procedures of the Environmental Protection Agency (EPA) and the Idaho Department of Environmental Quality (IDEQ).

**Clean Water Act and Stage Water Quality Laws:** The Interdisciplinary Team Hydrologist has determined that this project complies with the Clean Water Act, as well as state and Federal water quality laws.

**National Historic Preservation Act:** Because of the type of project and its location, the Forest Cultural Resource Specialist has determined that it meets the Agency's responsibilities under the National Historic Preservation Act (16 USC 470), as amended, and is consistent with the *Programmatic Agreement between the Idaho State Historic Preservation Officer, the Advisory Council on Historic Preservation, and the Region 1 National Forests in Northern Idaho Regarding the Management of Cultural Resources*.

**Migratory Bird Treaty Act:** The project complies with: the Migratory Bird Treaty Act; the U.S. Fish and Wildlife Service Director's Order #131, related to the applicability of the Migratory Bird Treaty Act to





Federal agencies; and, Executive Order 13186, meeting Agency obligations as defined under the January 16, 2001 Memorandum of Understanding between the Forest Service and U.S. Fish and Wildlife Service.

**American Indian Treaty Rights:** The Nez Perce Tribal Government Liaison and the Nez Perce Tribe reviewed the project and determined the proposed action will not affect Nez Perce Tribe Treaty rights or Nez Perce Tribal members' abilities to exercise those rights.

**Environmental Justice:** The proposed action will not disproportionately impact consumers, Native American Indians, women, low-income populations, other minorities, or civil rights of any American Citizen, in accordance with Executive Order 12898. No disproportionate impacts to minority or low-income populations were identified during scoping or the effects analysis.

**Prime Farm Land, Range Land, and Forest Land:** The proposed action complies with the Federal Regulations for prime land. Federal lands will be managed with appropriate sensitivity to the effects on adjacent lands.

**Energy Requirements:** No unusual energy demands are required to implement the proposed action.

**Other Laws or Requirements:** The proposed action is consistent with all other Federal, state, or local laws or requirements for the protection of the environment and cultural resources.

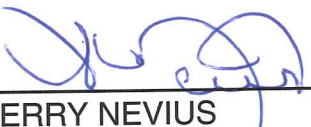
#### **V. Administrative Review and Appeal Opportunities, and Implementation Date**


This decision is not subject to appeal, pursuant to the U.S. Court of Appeals for the Ninth Circuit Court Order, filed March 7, 2014, in Case No. 12-16206 (DC No. 1:11-cv-00679-LJO-DLB). The project may be implemented during the timeframe specified above.

#### **VI. Contact Person**

Questions regarding this decision should be directed to: Anne Connor, Watershed Restoration Program Lead, Nez Perce-Clearwater National Forests, 12730 Hwy 12, Orofino, ID, 83544; Telephone: 208-476-8235; FAX: 208-476-8329; aconnor@fs.fed.us.

#### **VII. Signature of Deciding Officer**

  
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TERRY NEVIUS  
Red River District Ranger  
Nez Perce-Clearwater National Forests

  
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Date

Enclosures: Map of Project Site

cc: Jen McAdoo

Eric Linder

Curtis Arnzen, Idaho Transportation Department

Mark Johnson, Nez Perce Tribe





# Project Area Map

